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3 **DRAFT AMENDMENTS TO THE**
4 **BIOSOLIDS USE REGULATIONS (12 VAC 5-585)**
5 **PETITION FOR RULEMAKING**

6 **RE: INSURANCE, NOTICE, COMPLAINT RESPONSE, SIGNAGE, SPILL RESPONSE**
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9 12VAC 5-585-310. Additional monitoring, reporting and recording requirements for land
10 application.

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12 Either the Operation and Maintenance Manual, sludge management plan, or operating
13 plan, shall contain a schedule of the required minimum tests necessary to monitor land
14 application operations. Such testing schedule information for land application of
15 biosolids shall contain instructions for recording and reporting. Monitoring of any
16 associated land treatment systems shall be in accordance with the biosolids use Operation
17 and Maintenance Manual if provided.
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19 The permit holder shall provide to the Department of Health and to each locality in which
20 it is permitted to land apply biosolids, written evidence of current liability insurance, or
21 such other evidence of financial responsibility as the Board may establish by regulation,
22 in an amount not less than \$1,000,000, which shall be available to pay claims for cleanup
23 costs, personal injury, bodily injury and property damage resulting from the transport,
24 storage and land application of biosolids in Virginia.
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26 Liability insurance meeting the above shall be maintained by the permit holder at all
27 times that it is authorized to transport, store or land apply biosolids in Virginia. The
28 permit holder shall immediately notify the Department of Health in the event of any lapse
29 or cancellation of the insurance coverage required by this section.
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31 12 VAC 5-585-460. General.
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33 12 VAC 5-585-460 through VAC 5-585-500 provide minimum criteria which will be
34 used for reviewing sludge management plans and operating plans. Each plan shall
35 address site specific management practices involving use of biosolids. Final disposition
36 of sludge may involve use or disposal. For the purpose of 12 VAC 5-585-460 through
37 12 VAC 5-585-500, “use” shall include resource recovery, recycling or deriving
38 beneficial use from the material. “Disposal” shall involve the final disposition of a waste
39 material without resource recover, recycling or deriving beneficial use from the material.
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41 All practical use options should be evaluated before disposal options are evaluated or
42 selected. Biosolids use practices include land application for agricultural, nonagricultural
43 and silvicultural use and the distribution and marketing of exceptional quality biosolids.
44 Sludge disposal methods include incineration, landfill codisposal, surface disposal, and
45 other dedicated disposal practices, such as burial on dedicated disposal sites.
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1 Water quality protection and monitoring provisions shall be included in all sludge
2 management plans and operating plans, except for those land application practices
3 designed for limited loadings (amounts per area per time period) within defined field
4 areas in agricultural use. Groundwater monitoring requirements shall be evaluated by the
5 commissioner for annual application of biosolids to specific sites, reclamation of
6 disturbed and marginal land and application to forest land (silviculture). Submittal of site
7 specific (soils and other) information for each identified separate field area shall be
8 required for issuance of permits (12 VAC 5-585-130). For information regarding
9 handling and disposal of septage, refer to the Sewage Handling and Disposal Regulations;
10 (12 VAC 5-610-10 et seq). Septage treated and managed in accordance with standards
11 contained in this chapter is defined as either sewage sludge or biosolids as appropriate.
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13 Conformance of biosolids use to local land use zoning and planning should be resolved
14 between the local government and the permit applicant. The permit applicant shall
15 attempt to notify land owners of property within 200 feet and 1,000 feet of the boundaries
16 of sites proposed for frequent use and dedicated sites, respectively, and furnish the
17 division and the Chief Executive Officer, or designee for the local government, where the
18 site is located, with acceptable documentation of such notifications (i.e., intent to land-
19 apply biosolids on the proposed locations). Relevant concerns of adjacent landowners
20 will be considered in the evaluation of site suitability. The requirements for processing
21 approvals of sludge management plans and operational plans are included in 12 VAC 5-
22 585-140 H as well as: (i) requirements for notification of applications, hearings and
23 meetings, (ii) minimum information required for completion of a sludge management
24 plan for land application (Part IV, 12 VAC 5-585-620 et seq.).
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26 At least 15 days prior to commencing land application of biosolids at a permitted site, the
27 permit holder shall if required by an adopted local ordinance, deliver or cause to be
28 delivered, written notification that is substantially in compliance with this section, to the
29 Chief Executive Officer, or designee for the local government, where the site is located.
30 If the site is located in more than one County, the information shall be provided to all
31 jurisdictions where the site is located.
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33 The notification required by this section shall include the following:
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- 35 1. The name, address and telephone number of the permit holder, including the
36 name of a representative knowledgeable of the permit;
- 37 2. Identification, by tax map number and farm service agency (FSA) farm tract
38 number, of parcels on which land application is to take place;
- 39 3. A map indicating haul routes to each site where land application is to take
40 place.
- 41 4. The name or title, and telephone number of at least one individual designated
42 by the permit holder to respond to questions and complaints related to the land
43 application project;
- 44 5. The approximate dates on which land application is to begin and end at the
45 site;

- 1 6. The name and telephone number of the person or persons at the Virginia
2 Department of Health to be contacted in connection with the permit;
- 3 7. The name, address, and telephone number of the wastewater treatment
4 facility, or facilities, from which the biosolids will originate, including the
5 name, or title, of a representative of the treatment facility that is
6 knowledgeable about the land application operation.

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8 The permit holder, shall, within 24 hours of receiving notification of a complaint,
9 commence investigation of said complaint and take such steps as are warranted in
10 consultation with VDH and the Chief Executive Officer, or designee for the local
11 government. The permit holder shall confirm receipt of a complaint by phone, e-mail or
12 facsimile to the VDH, the Chief Executive Officer or designee for the local government,
13 and the owner of the treatment facility from which the biosolids originated, as soon as
14 possible, but no later than 24 hours, after receiving the complaint. Complaints and, as a
15 follow-up, responses shall be documented by the permit holder and submitted with
16 monthly land application reports to VDH and copied to the Chief Executive Officer, or
17 designee for the local government, and the owner of the treatment facility from which the
18 biosolids originated.

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20 12 VAC 5-585-480. Land acquisition and management control.

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22 When land application of sludge is proposed, the continued availability of the land and
23 protection from improper concurrent use during the utilization period shall be assured. A
24 written agreement shall be established between the landowner and owner, with the
25 information specified in Table A-1. The responsibility for obtaining and maintaining the
26 agreements lies with the party who is the holder of the permit. Site management controls
27 shall include ~~for~~ access limitations relative to the level of pathogen control achieved
28 during treatment. In addition, agricultural use of sludge in accordance with this chapter
29 ~~will~~ is not to result in harm to threatened or endangered species of plant, fish, or wildlife,
30 ~~not~~ nor result in the destruction or adverse modification of the critical habitat of a
31 threatened or endangered species. Site specific information shall be provided as part of
32 the management or operating plan.

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34 At least forty-eight (48) hours prior to delivery of biosolids for land application on any
35 site permitted under this chapter, the permit holder shall post a sign at the site, if so
36 required by an adopted local ordinance, that it is visible and legible from the public right-
37 of-way, conforming to the specifications set forth in 12 VAC5-585-480. If the site is not
38 located adjacent to a public right of way, the sign shall be posted at or near the
39 intersection of the public right of way and the main site access road or driveway. The
40 Department may grant a waiver or require alternative posting options due to extenuating
41 circumstances. The sign shall remain in place for at least forty-eight (48) hours after
42 land application has been completed at the site.

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44 The sign shall be made of weather-resistant materials and shall be sturdily mounted, so as
45 to be capable of remaining in place and legible throughout the period that the sign is

1 required at the site. Signs required by this section shall be temporary, non-illuminated,
2 and four (4) square feet or more in area. and shall only contain the following information:

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- 5 1. A statement that biosolids are being land-applied at the site;
- 6 2. The name and telephone number of the permit holder as well as the name, or
7 title, and telephone number of an individual designated by the permit holder to
8 respond to complaints and inquiries;
- 9 3. Contact information for the Virginia Department of Health, including a
10 telephone number for complaints and inquiries.

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12 The permit holder shall promptly replace or repair any sign that has been removed from a
13 land application site prior to forty-eight (48) hours after completion of land application or
14 that has been damaged so as to render any of its required information illegible.

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16 12 VAC 5-585-490. Transport

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18 Transport routes should follow primary highways, should avoid residential areas when
19 possible, and should comply with all Virginia Department of Transportation requirements
20 and standards. Transport vehicles shall be sufficiently sealed to prevent leakage and
21 spillage of sludge. For sludges with a solids content of less than 15%, totally closed
22 watertight transport vehicles with rigid tops shall be provided to prevent spillage unless
23 adequate justification is provided to demonstrate that such controls are unnecessary. The
24 commissioner may also require certain dewatered sludges exceeding 15% solids content
25 to be handled as liquid sludges. The minimum information for sludge transport which
26 shall be supplied in the sludge management plan is listed in Part IV (12 VAC5-585-620
27 et seq.).

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29 The permit holder shall be responsible for the prompt cleanup and removal of biosolids
30 spilled during transport to the land application site or to or from a storage facility. The
31 Operations Manual shall include a plan for the prevention of spills during transport and
32 for the cleanup and removal of spills. The permit holder shall ensure that its personnel,
33 subcontractors or the drivers of vehicles transporting biosolids for land application shall
34 be properly trained in procedures for spill removal and cleanup.

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36 The permit holder shall take appropriate steps to prevent drag-out and track-out of dirt
37 and debris or biosolids from land application sites onto public roads. Where material is
38 transported onto a paved or public road surface, the road surface shall be cleaned
39 thoroughly as soon as practicable, but no later than the end of each day.

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41 The permit holder shall promptly report offsite spills to the Virginia Department of
42 Health and, if applicable, the Chief Executive Officer, or designee for the local
43 government and the owner of the facility generating the biosolids. The report shall be
44 made verbally as soon as possible, but no later than 24 hours after the discovery of the
45 spill. After business hours notification may be provided by voice-mail, facsimile or e-
46 mail.

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A written report, which shall include a description of measures taken in response to the spill, shall be submitted by the permit holder to the Virginia Department of Health and, if applicable, to the the Chief Executive Officer or designee for the local government and the owner of the facility generating the biosolids, within five (5) working days of the spill. The report may be sent by certified mail, facsimile or e-mail, or it may be hand-delivered.